

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

County of Jefferson,
Petitioner,

vs.

Union Pacific Railroad and the State of Illinois Department of
Transportation,
Respondents

T00-0113

In the matter of the Petition for an Order directing the construction of a grade separation structure, other associated drainage structures, approach roadways, and the removal of an existing at grade crossing and adjacent timber highway bridge structure where TR 227 (Green Road) now crosses the tracks of the Union Pacific Railroad in the central part of Jefferson County near the City of Mt. Vernon, and apportioning the project cost among the parties.

ORDER

By the Commission:

On December 14, 2000, the County of Jefferson ("Petitioner" or "County"), on behalf of Mt. Vernon Township, filed its Petition with the Illinois Commerce Commission ("Commission") naming therein the Union Pacific Railroad Company ("UP") and the Illinois Department of Transportation ("IDOT" or "Department") as Respondents. Petitioner requests an Order from the Commission requiring the construction of a highway overpass structure to carry Township Road ("TR") 227 or Green Road over the tracks of the UP and an adjacent timber highway bridge in Mt. Vernon Township ("Township") near the City of Mt. Vernon, Jefferson County, Illinois. Petitioner further asks that a major portion of cost of the project be borne by the Grade Crossing Protection Fund with the remainder of the cost being divided between the parties.

On September 18, 2001, May 21, 2003, and June 4, 2003, hearings were held in this matter before a duly authorized Administrative Law Judge at the Commission's offices in Springfield, Sangamon County, Illinois. Representatives of the County, Department, Township, and the Rail Safety Section of the Commission were present and participated in the hearing on September 18, 2001. Counsel for the Township (County) and UP were present at the May 21, 2003, hearing. Representatives of IDOT and the Rail Safety Section of the

Commission were present and also participated in the May 21, 2003, hearing. Only a member of the Commission's Rail Safety Section staff was present at the June 4, 2003, hearing. At the conclusion of the hearing on June 4, 2003, the case was marked "Heard and Taken."

TR 227 extends in an east-west direction several miles north of the City of Mt. Vernon and is under the jurisdiction of Mt. Vernon Township. The track of the UP extends in a general north-south direction in the vicinity of the existing crossing. TR 227 currently crosses the track of the UP by means of an at-grade crossing (AAR/DOT 167 745C). The average daily traffic using the crossing is estimated to be 550 vehicles per day at an unposted speed of 55 mph. Train traffic consists of twenty (20) to twenty-five (25) trains per day at a maximum timetable speed of 60 mph. The crossing is currently equipped with automatic flashing light signals. The highway approach grades do not comply with the grade requirements of 92 Ill. Adm. Code 1535.204. Approximately 58'6" east of the at-grade crossing, there is an antiquated wooden bridge approximately 63 feet in length with a deck surface of 18 feet carrying one lane of traffic over Casey Creek. The sufficiency rating for the wooden bridge is 18.2 and the Department has recommended that the bridge be posted for only sixteen (16) tons. If the sufficiency rating is less than 50, it is a candidate for reconstruction by IDOT standards. The location of this wooden bridge prohibits the reconstruction of the east highway approach to meet Commission regulations. (Structure Number 041-3094) is maintained by the Township, and is structurally and functionally deficient for the types and levels of traffic now using TR 227.

The proposed bridge structure will carry TR 227 over the track of the UP by means of a highway overpass structure and will have a total overall length of 301 feet 10 inches, back to back of abutments. The new pre-cast and pre-stressed concrete structure will span not only the UP's track, but also the creek on the immediate east side of the crossing. Due to the closeness of the creek to the track, the bridge would have to span a majority of the area where the creek is located if the creek was not present. The new bridge will have four spans, starting from the east, 59 feet 6 inches, the middle two spans at 80 feet 2 inches, and the last span at 79 feet 6 inches. There will be two 12-foot traffic lanes on the bridge, one in each direction. The vertical clearance from the top of track to the bottom of the structure will be 23 feet.

Funding issues were discussed in the Petition filed in this matter. Also, testimony was taken on the issue of Funding of the new structure and for a division of cost for the project. In the event that the DCCA/Legislative Grant funding is not obtained, Petitioner, Jefferson County, is utilizing alternate funding sources to replace the DCCA/Legislative Grant funds currently applied for (Staff Exhibit IIID). In place of the DCCA/Legislative Grant funding, Petitioner proposes to use BRRP Funds (available in FY 2005 in a fixed lump sum amount of \$376,000), Township Bridge Funds in the amount of \$83,000, and local agency

Funds in the amount of \$143,000. Note: the cost division table does not include DCCA/Legislative funding. The other funding sources remain the same.

The Commission, having given due consideration to the entire record herein, finds that:

- 1) the Commission has jurisdiction of the parties hereto and the subject matter herein;
- 2) the recitals of fact as set forth in the prefatory portion of this Order are true and correct and are hereby adopted as findings of fact;
- 3) permission should be granted to the County, acting on behalf of Green Township, to construct a highway overpass structure to carry TR 227 over the track of the UP and the creek in the immediate east highway approach to the existing at-grade crossing, at the place and as substantially shown on Petitioners Exhibit No. 4 and 5;
- 4) the project should be completed within two (2) years from the date of the Order;
- 5) the cost for the aforementioned improvements should be divided among the parties and the Grade Crossing Protection Fund ("Fund" or "GCPF") of the Motor Fuel Tax Law as required by Law;
- 6) it is fair and reasonable that the Fund, County, the Township, and the UP, be required to bear their respective portions of the proposed project cost as follows; the following table reflects only those eligible costs within the limits of the bridge structure from station 31+00 to station 47+76.64:

Improvement	Estimated Cost	GCPF 60%	County*** (Township) 35%	UP 5%
ROW Acquisition	\$14,000	\$8,400	\$4,900	\$700
Construction	\$1,200,000	\$720,000	\$420,000	\$60,000
Railroad Flagging	\$40,000	\$24,000	\$14,000	\$2,000
10% Contingency	\$127,400	\$76,440	\$44,590	\$6,370
Engineering*	\$257,200	\$154,320	\$90,020	\$12,860
Wetland Mitigation	\$500	\$300	\$175	\$25
Construction crossing	\$20,000	\$12,000	\$7,000	\$1000
Round off	\$900	\$540	\$315	\$45
Total	\$1,660,000**	\$996,000	\$581,000	\$83,000

* Engineering cost include Preliminary, Design, and Construction Engineering cost.

**The total from the table is \$1,659,100; however, this figure has been rounded off and the new figure used for the overall cost of the project on which the division of cost is based is \$1,660,000. The additional \$900 has been divided equally between the parties.

***The funding sources for the County and/or Township do not include DCCA/Legislative Grant funding in the amount of \$275,000. The table takes into account that the DCCA/Legislative Grant may not become available and the table is based upon the Township using BRRP Funds, Township Bridge Program Funds, and Local Agency Funds.

the sum of the Fund participation shall be 60% of the eligible project costs, not to exceed \$996,000; the amount to be paid by the Township utilizing BRRP Funds, Township Bridge Program Funds, and Local Agency Funds, shall not exceed \$581,000; the amount to be paid by the UP toward the project shall not exceed \$83,000; all cost to maintain the bridge structure and highway approaches after construction shall be borne 100% by the Township.

IT IS THEREFORE ORDERED that permission be, and it is hereby, granted, to the County of Jefferson, agent for Mt. Vernon Township, to construct a grade separation structure to carry TR 227 or Green Road over the track of the Union Pacific Railroad Company.

IT IS FURTHER ORDERED that the County of Jefferson be, and it is hereby, required and directed to complete the construction of the TR 227 highway overpass structure within three (3) years from the date of this Order.

IT IS FURTHER ORDERED that the cost for the construction of the TR 227 structure shall be divided among the parties and the Grade Crossing Protection Fund in the manner as contained in Finding (6), herein.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund and Federal funds shall be submitted to the Illinois Department of Transportation Bureau of Local Roads and Streets, District 7, 400 West Wabash, Effingham, IL 62401. A copy of all bills received shall be submitted to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from the County of Jefferson shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the date of completion as set forth in this Commission Order. The Department shall, at the end of the 12th month from the Commission Order completion date, de-obligate all residual funds accountable for the cost of the warning device installation.

IT IS FURTHER ORDERED that in view of the fact Federal funding is being utilized for the bridge construction, applicable provisions of Title 23,

chapter 1, Subchapter G, Part 646, of the Federal-Aid Policy Guide adopted December 9, 1991, shall govern all such work.

IT IS FURTHER ORDERED that the County of Jefferson shall submit to the Illinois Department of Transportation for its approval, two (2) copies of the plans and two (2) copies of the detailed cost estimate applying to the construction of TR 227 highway overpass structure.

IT IS FURTHER ORDERED that the County of Jefferson shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing and Information, Transportation Division of the Commission, stating the progress it has made toward the completion of the work herein required of it. If the project is behind schedule, the report must also include a brief explanation of the reason(s) for the delay. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in this Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile number of the County's employee responsible for management of this project.) The report shall also include a report on the status of the expenditures of the total project.

IT IS FURTHER ORDERED that since the roadway improvements will be performed by the Jefferson County and/or its contractor, contractor insurance and railroad liability insurance will be required as specified in Illinois Department of Transportation's "Standard's and Specifications for Road and Bridge Construction", Section 107.

IT IS FURTHER ORDERED that 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects the County of Jefferson to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises County of Jefferson that any failure to comply may result in the assessment of such sanctions.

IT IS FURTHER ORDERED that any person making a Request For Extension Of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an extension of time that exceeds 30 days must file a Petition For Supplemental Order with the

Director of Processing no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

IT IS FURTHER ORDERED that requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered time.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Order and Requests For Extension Of Time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that County of Jefferson be, and it is hereby, required and directed to submit a written notice to the Director of Processing and Information, Transportation Division of the Commission, of the date the work herein required of it has been completed, said notice shall be submitted within five (5) days of said completion date.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company be, and it is hereby, required and directed to submit a National Inventory Update Report Form to the Director of Processing and Information, Transportation Division of the Commission, advising in the change of status of the at-grade crossing at TR 227.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 18th day of June, 2003.

Edward C. Husley 2

JUDGE	<i>[Signature]</i>
SECTION CHIEF	
ORDERS SUPERVISOR	<i>[Signature]</i>

Chairman